

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Judy Dingman,
Petitioner-Appellant,

v.

Pottawattamie County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-78-0367

Parcel No. 002 035 559 015609 085 000

On May 25, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Judy Dingman, was self-represented and requested the appeal take place by telephone. The Pottawattamie County Board of Review designated Assistant County Attorney Leanne Gifford as its representative and also participated by telephone. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Judy Dingman, owner of residential property located at 3503 Ronald Road, Council Bluffs, Iowa, appeals from the Pottawattamie County Board of Review decision reassessing her property. The real estate was classified residential for the January 1, 2010, assessment and valued at \$89,900; representing \$14,256 in land value and \$75,644 in dwelling value. The value was increased from the January 1, 2009, assessment.

Dingman protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a); that the property was assessed for more than authorized by law under section 441.37(1)(b); and that there has been a change downward in the value since the last assessment under section 441.37(1) and 441.35(3). In response to

the protest, the Board of Review notified Dingman the January 1, 2010, assessment would not change, stating in part, the protester did not prove the property was assessed at a higher proportion as compared to the rates of other like properties, did not prove assessment was excessive, and failed to prove a change in value since last assessment.

Dingman then appealed to this Board by filing the same protest letter dated May 1, 2010, that was filed with the Board of Review. The letter that was filed does not address the issue of downward trend. However, this Board notes that since the assessment was changed for the January 1, 2009, assessment, the claim downward change in value is “akin” to the ground that the property is assessed for more than authorized by law. *See Dedham Coop. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Therefore, this Board will address the ground that the property is assessed for more than authorized by law, as well as the equity claim. Dingman values the property at \$69,000 and seeks \$30,900 in relief.

The subject property consists of a double-wide manufactured home with a 1456 square foot base that was built in 1978, with an 88 square-foot front porch and a wood deck with 128 square feet. The property has a 1008 square-foot detached garage that was built in 2008. The site consists of 0.23 acres.

Dingman states in the May 2007, letter that the subject is a 1978 vehicle with a certificate of title and she believes the value decreased with age. She notes, however, it has a higher value since the interior and exterior have been updated. Since the home is set on piers (cement blocks), insurance companies will not insure it as a home. The subject property is insured for \$60,000, which includes the manufactured home only. The policy includes up to \$3000 for the other structures and excludes the land value.

Dingman testified the subject property is located in the Malmore area and, in her opinion, has the lowest property value in the city because of the high crime rate.

As for her equity claim, Dingman listed the assessed values of two other trailers in the area with her petition. She indicated that a property on the same street is nine years newer and 224 square-feet larger and has an assessed value of \$53,966. Another property on the next street that is 20 years newer is only assessed at \$53,028. However, Dingman did not make adjustments to compare these two properties to the subject property for differences such as land size, out buildings, or depreciation. A large difference between the comparables and the assessed value of the subject property is the 24 x 42 foot detached garage built in 2008.

The Pottawattamie County Board of Review did not supply any additional evidence other than the certified record.

Reviewing all the evidence, we find the preponderance of the evidence does not support Dingman's contention that the subject property is not equitably assessed or assessed for more than authorized by law. Although Dingman provided two other properties as comparables, the record lacked sufficient evidence to compare them to the subject property. Furthermore, she did not supply sufficient evidence of the market value of the property, such as comparing it to similar sales in her area.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Dingman did not provide sufficient evidence to show the property was inequitably assessed under either test.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Again, Dingman did not provide evidence of the market value of the subject property.

Viewing the evidence as a whole we determine that substantial evidence is lacking to support Dingman's claim of over-assessment as of January 1, 2010. We, therefore, affirm the Dingman property assessment as determined by the Board of Review. The Appeal Board determines that the

property assessment value as of January 1, 2010, is \$89,900; representing \$14,256 in land value and \$75,644 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment of the Dingman property located in Council Bluffs, Iowa, as determined by the Pottawattamie County Board of Review is affirmed.

Dated this 15 day of July 2011.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-15</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	